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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Truth-in-Billing
and
Billing Format

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CC Docket No. 98-170

REPLY COMMENTS OF SBC COMMUNICATIONS INC.
TO COMMENTS ON PETITIONS FOR WAIVER, STAY OR CLARIFICATION

I. Introduction

SBC Communications Inc.¹ (SBC) replies to only three specific issues raised in the Comments on Petitions for Waiver, Stay or Clarification: (1) responsibility for determining and designating deniable and non-deniable charges, (2) responsibility for determining the billing language and methodology used for designating "deniable" and "non-deniable" charges, and (3) responsibility for identifying new service providers. AT&T Corp. (AT&T) takes the position that identification of "deniable" and "non-deniable" charges should be the responsibility of the local carriers whose bills contain the non-local charges.² SBC disagrees with that position. SBC also disagrees with the

¹ SBC Communications Inc. is the parent company of various subsidiaries, including wireline telecommunications carriers. These subsidiaries include Southwestern Bell Telephone Company (SWBT), Pacific Bell, Nevada Bell, and The Southern New England Telephone Company (SNET). The abbreviation "SBC" shall be used herein to include each of these subsidiaries as appropriate in the context.

² *AT&T Comments*, CC Docket No. 98-170, *In the Matter of Truth-in-Billing and Billing Format*, filed on September 3, 1999, page 5.

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SBC Communications Inc.
September 10, 1999

position taken by MCI Worldcom, Inc. (MCI) in footnote 16 of its Comments³ that the carrier seeking payment is to determine the precise language used to describe “deniable” and “non-deniable” charges, rather than the billing entity. Finally, MCI⁴ takes the position that it is a LEC responsibility to identify new pre-subscribed service providers for customers, which is a modification of the “highlight new service provider” requirement in the Truth-in-Billing Order. SBC opposes the shifting of the responsibility for identifying new service providers to the LECs, unless the requirement is modified to require that only new presubscribed service providers are to be so identified.

II. Identification of “Deniable” and “Non-deniable” Charges

To make the determination as to whether a particular charge is “deniable” or “non-deniable,” one must first make a factual determination and then a legal determination. The factual determination requires knowledge of the rate structure for the carrier providing the service and an understanding of the type of service being provided. Only the entity from which the charge originated would know what the charge represented, whether the charge description was accurate, and whether the charge was truly “deniable” or “non-deniable.” To place the burden of making the deniable/non-deniable determination on SWBT would be to shift responsibility for that determination from the entity with knowledge to an entity that does not have the requisite knowledge to make that determination.

The legal determination is then made by applying state law to the facts regarding the service and rate structure. The carrier that actually provides the telecommunications

³ *MCI Worldcom's Comments*, CC Docket No. 98-170, *In the Matter of Truth-in-Billing and Billing Format*, filed on September 3, 1999, at page 8.

⁴ *Id.* at page 13.

service and charges the customer for that service is the only entity that knows the exact nature of the service provided and the rate structure that applies to that provision of service. Billing entities cannot maintain full and current data on the current rate structures used by the all of the carriers for whom they bill, nor would those billing entities be able to make any independent determination as to the nature of the service actually provided. The service provider is the only carrier in a position to accurately make that factual determination.

Even if a billing entity were theoretically able to determine the nature of the service provided and the appropriate rate to apply, the application of state law to those facts to determine whether each such rate is "deniable" or "non-deniable" is a legal determination that should be the responsibility of the service provider, not the billing entity. For these reasons, the responsibility to make the determination as to whether charges are "deniable" or "non-deniable" must lie with the carrier imposing the charges for services provided, as provided by the Commission in the Truth-in-Billing Order.

In Paragraph 25 of the Truth-in-Billing Order, the Commission stated that "[E]ven where an interexchange carrier (or other carrier) uses the billing and collection services of a LEC or other third-party billing agent, the interexchange carrier still bears the responsibility of ensuring that such charges appear on the bill remitted to the consumer in a manner that complies with the principles set forth in this Order." It follows, then, that it is the responsibility of the service provider to clearly designate each charge as deniable or non-deniable when the charges are submitted to the billing entity. The manner in which that information is to be conveyed to the billing entity is a matter of contract to be negotiated between the parties. The Commission should make clear, however, that it is

the service provider's responsibility to determine which designation is to be applied to each charge and to communicate that designation to the billing entity. Since AT&T argues for a different interpretation, this issue, which seemed clear in the Truth-in-Billing Order, should be clarified.

III. Language Used to Describe "Deniable" and "Non-deniable Charges"

MCI contends that it is the "carrier seeking payment for charges, not the billing entity, that determines the precise language used to describe those charges for which nonpayment would not result in termination of local service."⁵ While that interpretation of footnote 16 of the Truth-in-Billing Order might sound somewhat reasonable on a theoretical basis, in actuality such interpretation would be totally unworkable and extremely confusing for customers. The billing entity must have the right to determine the basic structure of its bill and the manner in which state regulations will be reflected on the bill. Otherwise, on a bill on which the charges of five carriers appear, there could be ten different labels applied to "deniable" and "non-deniable" charges. Further, the designation of "deniable" and "non-deniable" charges by noting charges with an asterisk or some other symbol directing the consumer to an explanatory footnote, which was noted with approval in the Truth-in-Billing Order, would not work. Each carrier could insist upon different language in the footnote to designate its deniable and non-deniable charges in its own precise language. Such multiplicity of terms, all meaning the very same thing, would cause confusion for customers and would be prohibitively expensive. The billing entity must have the right to determine how "deniable" and "non-deniable" charges will be indicated on its bills and any carrier choosing to purchase its billing

⁵ Footnote 16 on Page 8 of *MCI's Comments*.

services must be required to conform to that method of designating "deniable" and "non-deniable" charges. The only determination for the service provider to make is the determination as to which charges are "deniable" and which are "non-deniable." Once that determination is made and communicated to the billing entity, then it should be the billing entity's responsibility to determine how that information can best be communicated to the customer in clear, simple and consistent language.

IV. Responsibility for Designating New Service Providers

MCI takes the position that "it is a LEC responsibility to provide the information regarding new presubscribed service providers to customers."⁶ SBC companies show the pre-subscribed carrier on the bill today. The Truth-in-Billing Order, however, would require that each service provider that did not have charges on the preceding month's bill be highlighted. There is no system currently in place which would fulfill that requirement. The only way that LECs could fulfill that requirement would be to attempt to establish some sort of computer system that would automatically compare the bill for each and every customer with the previous month's bill. Such a system does not exist today and, even assuming such could be developed, such a massive system change would be prohibitively expensive and could never pass any type of cost/benefit analysis. There really is no good solution as to the manner in which the "highlight new service provider" requirement, as currently written, can be implemented. The Commission should schedule an industry forum for the purpose of determining how the Commission's goal of alerting the customer to new types of charges on the bill could be accomplished at a reasonable cost for the incremental benefit of that additional information. SBC supported USTA's

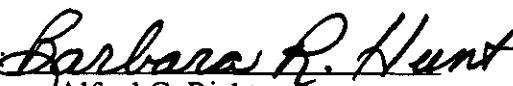
⁶ Page 13 of MCI's Comments.

Petition for Waiver of this requirement. However, if the requirement is not modified, the responsibility for making the determination that a service provider is a "new service provider" as defined in the Truth-in-Billing Order must be borne by the service providers, not by the billing LECs. After all, the new service provider is in a vastly superior position to know whether or not it had billed the customer in question the month before, and stands to directly profit by the transaction in need of identification.

For all of the reasons set forth above, SBC respectfully requests that the Commission clarify the respective responsibilities of the service providers and the billing LECs in each of the situations discussed above.

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Certificate of Service

I, Katie Turner, hereby certify that the "Reply Comments of SBC Communications Inc. to Comments on Petitions for Waiver, Stay or Clarification" in CC Docket No. 98-170 has been served on September 10, 1999 to the Parties of Record.


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